

**THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.**

NEW SECTION

**WAC 458-16A-100 Senior citizen and disabled person exemption--Definitions. (1)**

**Introduction.** This rule contains definitions of the terms used for the senior citizen and disabled person exemption from property taxes. The definitions apply to the senior citizen and disabled person exemption contained in sections RCW 84.36.381 through RCW 84.36.389 unless the context clearly requires otherwise.

(2) **Annuity.** "Annuity" means a series of payments under a contract. Annuity contracts pay a fixed sum of money at regular intervals for more than one full year. An annuity may be paid as the proceeds of a life insurance contract (other than as a lump sum payment), unemployment compensation, disability payments, or even welfare receipts. It does not include payments for the care of dependent children.

(3) **Assessment Year.** "Assessment year" means the year when the assessor lists and values the principal residence for property taxes. The assessment year is the calendar year prior to the year the taxes become due and payable. It is always the year before the claimant receives a reduction in his or her property taxes because of the senior citizen and disabled person exemption.

(4) **Capital Gain.** "Capital gain" means the amount the seller receives for property (other than inventory) over that seller's adjusted basis in the property. The seller's initial basis in the property is the property's cost plus taxes, freight charges, and installation fees. In determining the capital gain, the seller's costs of transferring the property to a new owner are also added onto the adjusted basis of the property. If the property is acquired in some other manner than by purchase, the seller's initial basis in the property is determined by the way the seller received the property (e.g. property exchange, payment for services, gift, or inheritance). The seller adjusts (increases and decreases) the initial basis of the property for events occurring between the time the property is acquired and when it is sold (e.g. increased by the cost of improvements made later to the property).

(5) **Claimant.** "Claimant" means a person claiming the senior citizen and disabled person exemption by filing an application with the county assessor in the county where the property is located.

(6) **Combined disposable income.** "Combined disposable income" means the annual disposable income of the claimant, the claimant's spouse, and any cotenant reduced by amounts paid by the claimant or the claimant's spouse for their:

- (d) Legally prescribed drugs;
- (e) Home health care; and
- (f) Nursing home expenses.

Disposable income is not reduced by these amounts if payments are reimbursed by insurance or a government program (e.g. Medicare or Medicaid). When the application is made the combined disposable income is calculated for the assessment year.

(7) **Cotenant.** "Cotenant" means a person who resides with the claimant and who has an ownership interest in the residence.

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(8) **Department.** "Department" means the state department of revenue

(9) **Depreciation.** "Depreciation" means the annual deduction allowed to recover the cost of business or investment property having a useful life of more than one year. In limited circumstances, this cost, or a part of this cost, may be taken as a Section 179 expense on the federal income tax return in the year business property is purchased.

(10) **Disposable income.** "Disposable income" means the adjusted gross income as defined in the Federal Internal Revenue Code of 2001, and as amended after that date, plus all the other items described below to the extent they are not included in or have been deducted from adjusted gross income. (RCW 84.36.383)

(a) Capital gains, other than gain excluded from the sale of a principal residence that is reinvested prior to the sale or within the same calendar year in a different principal residence;

(b) Losses. Amounts deducted for loss;

(c) Depreciation. Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments.

Attendant-care and medical-aid payments are any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the military;

(f) Veterans benefits other than attendant-care and medical-aid payments. Attendant-care and medical-aid payments are any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the Department of Veterans Affairs (VA).

(g) Federal Social Security Act and railroad retirement benefits;

(h) Dividend receipts;

(i) Interest received on state and municipal bonds.

(11) **Excess levies.** "Excess levies" means voter-approved levies by taxing districts, other than port or public utility districts, of additional taxes in excess of the statutory aggregate dollar rate limit, the statutory dollar rate limit, or the constitutional one percent levy limit. It does not include regular levies allowed to exceed a statutory limit with voter approval or voted regular levies.

(12) **Excluded military pay or benefits.** "Excluded military pay or benefits" means military pay or benefits excluded from a person's federal gross income, other than those amounts excluded from that person's federal gross income for attendant-care and medical-aid payments. Members of the Armed Forces receive many different types of pay and allowances. Some payments or allowances are included in their gross income for the federal income tax while others are excluded from their gross income. Excluded military pay or benefits include:

(a) Compensation for active service while in a combat zone or a qualified hazardous duty area;

(b) Death allowances for burial services, gratuity payment to a survivor, or travel of dependents to the burial site;

(c) Moving allowances;

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- (d) Travel allowances;
- (e) Uniform allowances;
- (f) Group term life insurance payments made by the military on behalf of the claimant, the claimant's spouse, or the cotenant, and
- (g) Survivor and retirement protection plan premiums paid by the military on behalf of the claimant, the claimant's spouse, or the cotenant.

(13) **Family dwelling unit.** "Family dwelling unit" means the dwelling unit occupied by a single person, any number of related persons, or a group not exceeding a total of eight related and unrelated nontransient persons living as a single noncommercial housekeeping unit. The term does not include a boarding or rooming house.

(14) **Home health care.** "Home health care" means the treatment or care of either the claimant or the claimant's spouse received in the home. It must be similar to the type of care provided in the normal course of treatment or care in a nursing home, although the person providing the home health care services need not be specially licensed. The treatment and care must meet at least one of the following criteria. It must be for:

- (a) Medical treatment or care received in the home;
- (b) Physical therapy received in the home;
- (c) Food, oxygen, lawful substances taken internally or applied externally, necessary medical supplies, or special needs furniture or equipment (such as wheel chairs, hospital beds, or therapy equipment), brought into the home as part of a necessary or appropriate in-home service that is being rendered (such as a meals on wheels type program); or
- (d) Attendant care to assist the claimant, or the claimant's spouse, with household tasks, and such personal care tasks as meal preparation, eating, dressing, personal hygiene, specialized body care, transfer, positioning, ambulation, bathing, toileting, self-medication a person provides for himself or herself, or such other tasks as may be necessary to maintain a person in his or her own home, but shall not include improvements or repair of the home itself.

(15) **Lease for life.** "Lease for life" means a lease that terminates upon the demise of the lessee.

(16) **Legally prescribed drugs.** "Legally prescribed drugs means drugs supplied by prescription of a medical practitioner authorized to issue prescriptions by the laws of this state or another jurisdiction.

(17) **Life estate.** "Life estate" means an estate whose duration is limited to the life of the party holding it or of some other person.

(a) Reservation of a life estate upon a principal residence placed in trust or transferred to another is a life estate.

(b) Beneficial interest in a trust is considered a life estate for the settlor of a revocable or irrevocable trust who grants to himself or herself the beneficial interest directly in his or her principal residence, or the part of the trust containing his or her personal residence, for at least the period of his or her life.

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(c) Beneficial interest in an irrevocable trust is considered a life estate, or a lease for life, for the beneficiary who is granted the beneficial interest representing his or her principal residence held in an irrevocable trust, if the beneficial interest is granted under the trust instrument for a period that is not less than the beneficiary's life.

(18) **Owned.** "Owned" includes "contract purchase" as well as "in fee," a "life estate," and any "lease for life." A residence owned by a marital community or owned by cotenants is deemed to be owned by each spouse or cotenant.

(19) **Ownership by a marital community.** "Ownership by a marital community" means property owned in common by both spouses. Property held in separate ownership by one spouse is not owned by the marital community. The person claiming the exemption must own the property for which the exemption is claimed. Example: A person qualifying for the exemption by virtue of age or disability cannot claim exemption on a residence owned by the person's spouse as a separate estate outside the marital community unless the claimant has a life estate therein.

(20) **Pension.** "Pension" means an agreement to provide for payments, not wages, to a person (or to that person's family) who has fulfilled certain conditions of service or reached a certain age. A pension may allow payment of all or a part of the entire pension benefit, in lieu of regular periodic payments.

(21) **Physical disability.** "Physical disability" means the condition of being disabled, resulting in the inability to pursue an occupation because of physical or mental impairment.

(22) **Principal residence.** "Principal residence" means the claimant owns and occupies the residence as his or her principal or main residence. It does not include a residence used merely as a vacation home. For purposes of this exemption:

(a) Principal or main residence means the claimant occupies the residence for more than six months each year.

(b) Confinement of the claimant to a hospital or nursing home does not disqualify the claim for exemption if:

(i) The residence is temporarily unoccupied;

(ii) The residence is occupied by the claimant's spouse or a person financially dependent on the claimant for support;

(iii) The residence is occupied by a caretaker who is not paid for watching the house;

(iv) The residence is rented for the purpose of paying nursing home or hospital costs.

(23) **Regular gainful employment.** "Regular gainful employment" means consistent or habitual labor or service which results in an increase in wealth or earnings.

(24) **Replacement residence.** "Replacement residence" means a residence that qualifies for the senior citizen and disabled person exemption and replaces the prior residence of the senior citizen or disabled person receiving the exemption.

(25) **Residence.** "Residence" means a single family dwelling unit whether such unit be separate or part of a multi-unit dwelling and includes up to one acre of the parcel of land on which the dwelling stands. The term also includes:

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(a) A share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides.

(b) A single family dwelling situated upon leased lands and upon lands the fee of which is vested in the United States, any instrumentality thereof including an Indian tribe, the state of Washington, or its political subdivisions.

(c) A mobile home which has substantially lost its identity as a mobile unit by being fixed in location upon land owned or rented by the owner of said mobile home and placed on a foundation, posts, or blocks with fixed pipe connections for sewer, water or other utilities even though it may be listed and assessed by the county assessor as personal property. It includes up to one acre of the parcel of land on which a mobile home is located if both the land and mobile home are owned by the same qualified claimant.

(26) **Veterans benefits.** Veterans benefits means benefits paid or provided under any law, regulation, or administrative practice administered by the VA. Federal law excludes from gross income any veterans' benefits payments, paid under any law, regulation, or administrative practice administered by the VA.